

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No. 11

meeting date: 8th March 2018
title: PLANNING APPEALS
submitted by: DIRECTOR OF COMMUNITY SERVICES
principal author: ROBERT MAJOR

1 PURPOSE

- 1.1 To inform Members of the planning appeal process and the importance of reviewing appeal decisions to determine whether the Council's Policies within the Core Strategy can be robustly defended.

2 BACKGROUND

- 2.1 Applicants have a right of appeal against most local planning authority decisions. Appeals are not solely limited to refused planning applications but can also be made against conditions attached to an approval or applications that have not been determined within the statutory time period.
- 2.2 An appeal can only be made by an applicant, there is no third party right of appeal (i.e objectors) and in the majority of cases appeals are determined by the Planning Inspectorate on behalf of the Secretary of State. However, the Secretary of State does have the power to make a decision on an appeal rather than the Planning Inspector.
- 2.3 The procedure to be followed at an appeal is somewhat dependant on the complexity of the planning matters to be considered. The majority of appeals are determined via written representations where both the appellant and the LPA submit their written comments to the Planning Inspectorate. Planning Hearings provide an opportunity for the Inspector to ask questions about the written evidence provided by both parties in respect of more complex cases and Planning Inquiries provide an opportunity for submitted evidence to be tested and generally involve the use of legal barristers on the most complex of appeals. In respect of householder and less complex commercial appeals, there is an expedited appeal process where the LPA do not get the opportunity to provide any further written representations beyond the decision notice and delegated/committee report.
- 2.4 In the past three years (1st January 2015 – 31st December 2017) Ribble Valley Borough Council has received 117 appeals, thus on average the LPA received almost 40 appeals per year.
- 2.5 In addition to issuing an appeal decision the Inspectorate can also award either the appellant or the LPA costs if it is considered that either party has behaved unreasonably in the consideration of the planning application or during the appeal process.

3 ISSUES

- 3.1 The LPA consider the reviewing of appeal decisions as an essential way of evaluating both national and local policies, particularly whether the policies within the Ribble Valley Core Strategy are being robustly defended and upheld at appeal.
- 3.2 The “Balancing and Housing Growth” section of the recent Local Government Association Corporate Peer Challenge (dated 20-22nd November 2017), specifically paragraph 4.23 recommends that the *“Close monitoring of planning appeals will also allow the council to be robust in ensuring development is delivered in a planned way. This can be done by providing regular reports to planning committee (perhaps 6 monthly) to enable members to consider whether there are any common themes with those applications overturned so that lessons can be learnt.”*
- 3.3 When planning appeal decisions are received from the Inspectorate they are immediately attached to the website for public viewing and sent to all staff members within the planning department for review. Each appeal decision is also included as an appendix on the agenda of every monthly Planning and Development Committee for Members to view. Additionally a monthly list of appeals received and appeal decisions is published on the planning section of the Council’s website.
- 3.4 As recommended by the Local Government Association Corporate Peer Challenge the LPA will now produce a six-monthly report to Planning and Development Committee summarising the appeal decisions the Council has received in a six month period. Attached to this report as an appendix is the first of these reports which summarises the 11 appeal decisions received during the six month period of Jul 2017 – Dec 2017. It is envisaged that these six-monthly reports will provide Members of Planning and Development Committee with an overview of recent appeal decisions and the challenges/issues that the department faces, as well as helping to ensure that consistent decisions are reached when determining planning applications in line with both national and local policies.

4 CONCLUSION

- 4.1 The Planning Department has acknowledged the outcomes and recommendations of the recent Corporate Peer Challenge Report and as a result will provide a six monthly report to Members of Planning and Development Committee summarising all appeal decisions received by the Council.

ROBERT MAJOR
PRINCIPAL PLANNING OFFICER

JOHN HEAP
DIRECTOR OF COMMUNITY SERVICES

For further information please ask for Robert Major, extension 4516.

APPENDIX 1

Six monthly summary of Appeal Decisions (Jul 2017 – Dec 2017)

During the six month period between 1st July 2017 and 31st December 2017 the Council received 10 appeal decisions from the Planning Inspectorate. Of these 10 decisions eight appeals were dismissed and two were allowed. Additionally the Council were also awarded full costs in respect of a withdrawn appeal. A brief summary of each appeal decision is included below:

3/2016/0279 - Dove Syke, Eaves Hall lane, West Bradford – Appeal Dismissed 03/07/17

An application to replace the existing timber windows and porch door with upvc double glazing on a Grade II Listed Building was refused by the LPA. In considering the appeal the Inspector accepted that the replacement openings would have the appearance of timber "...when closed and viewed from a distance", however "...when open the plastic interior would be evident and on close inspection the texture of the material would not have the same patina as painted wood."

The Inspector therefore concluded that the proposal would cause harm to special interest of the listed building and to its significance as a heritage asset when dismissing this appeal.

3/2016/0765 – Land at 68-70 Whalley New Road, Wilpshire – Costs awarded to the Council 04/07/17

An outline planning application for the erection two dwellings was submitted to the LPA and in order to fully consider the application the LPA requested that the applicant provide further information. The additional information requested was not provided and subsequently the application was refused. This refusal was appealed and the appellant also put in a cost claim against the Council. In response to the appeal the LPA submitted a detailed Appeal Statement, Cost Rebuttal and its own Cost Claim against the applicant.

The appellant subsequently withdrew their appeal and cost claim, however the LPA had already undertaken considerable work (and expense) in the defence of this appeal and thus continued with its cost claim for the works undertaken.

The Inspector agreed that the appellant's actions "...amount to unreasonable behaviour" and thus awarded full costs to the Council. The appellant subsequently paid the Council £900 in costs.

3/1016/1067 - Westholme, Longsight Road, Copster Green – Appeal Dismissed 06/07/17

The appellant appealed against the LPA's decision to refuse an application for a replacement dwelling in Copster Green. The application was refused on the grounds that the size, scale and appearance of the replacement dwelling were not in keeping with the character of the area, specifically the adjacent residential properties.

The Inspector agreed with the LPA's assessment and dismissed the appeal, commenting that the proposal would "...significantly harm the character and appearance of the area."

3/2017/0272 - Ribble View Barn, Alston Lane, Longridge – Appeal Dismissed 22/08/17

Prior approval application (under Class Q of GPDO) to convert an agricultural building to a residential dwelling. The application was refused on the grounds that the building was not capable of conversion without substantial construction works and that the proposal would result in a building that was “overtly suburban”.

In dismissing the appeal the Inspector commented that in order to be converted under Class Q a building must be capable of functioning as a dwelling without the need for the construction of new structural elements. The building to be converted was steel portal framed with metal cladding to the sides above blockwork walls and the Inspector therefore concluded that “...it is clear to me that without such extensive building works the existing building would not be capable as functioning as a dwelling”, when dismissing the appeal.

With regard to the “overtly suburban” appearance raised by the LPA, the Inspector comments that it is not necessary to consider this as part of the appeal as the principle of the conversion (because the existing building is not structural capable of conversion) is not acceptable.

3/2016/0708 & 3/2016/0709 - Dog and Partridge PH, Tosside – Appeal Dismissed 04/10/17

An application to convert an existing Public House and its adjoining bed and breakfast into two dwellings was refused by the LPA on the grounds that proposal would result in the loss of the historic use of the Grade II Listed Public House and would also result in a loss of employment/commercial facility to the detriment of tourism in the area and the local community. This decision was appealed by the applicant and a formal Hearing took place at the Council’s Offices.

In terms of impact upon tourism and the local community, the Inspector accepted that the existing uses on the site (bed and breakfast, and public house) were not financially viable and their loss would have no significant impact upon the rural economy. However the Inspector dismissed the appeal on the grounds that the change of use of the public house section of the building to a dwelling would be harmful to the historic and communal value of the building and consequently the proposal failed to preserve the special interest of the listed building.

3/2016/1196 – Land at Lower Standen Hey Farm, Whalley Road, Pendleton – Appeal Dismissed 25/10/17

An application to erect five dwellings was refused on the grounds that the erection new dwellings in the open countryside is contrary to the Core Strategy, and that the proposal would be visually detrimental to the open countryside and adjacent Grade II Listed Building.

The Inspector accepted that the LPA were able to demonstrate a five-year housing land supply and thus the residential development within the open countryside was contrary to the development plan. Additionally, in dismissing the appeal the Inspector also agreed that the proposal would “..not only harm the setting of the listed building but would also be detrimental to the character and appearance of the rural landscape to the south of Clitheroe.”

3/2017/0039 – 18 Netherwood Gardens, Brockhall Village – Appeal Dismissed 25/10/17

A householder appeal against a refusal of retrospective planning permission for amendments to the front and rear first floor balcony areas. The application was refused on the grounds that the alterations to the front would be visually detrimental to the area and the alterations at the rear would have a detrimental impact upon neighbouring residential amenity.

The Inspector did not consider that there was an amenity issue in respect of the rear balcony, however the Inspector agreed that the alterations to the front caused significant harm to the character and appearance of local area and therefore dismissed the appeal.

3/2017/0308 – Fields Farm Barn, Back Lane, Chipping – Appeal Allowed 02/11/17

A householder appeal against a refusal for a new openings within a former barn building. The LPA refused the application on the grounds that the openings would undermine the inherent character of the existing building and be of detriment to the visual amenities and character of the area, including the AONB.

In allowing the appeal the Inspector did not consider that the new openings would harm the character of the dwelling or the surrounding area.

3/2017/0088 – 1 and 2 Abbeycroft, The Sands, Whalley – Appeal Dismissed 03/11/17

Listed building consent was refused for the demolition of an external toilet block to be replaced with a single storey extension at 1 and 2 Abbeycroft in Whalley Conservation Area.

In dismissing the appeal the Inspector agreed with the LPA that the proposed works would fail to preserve the special interest of the listed building, as well as the setting of other listed buildings in the vicinity and the significance of Whalley Conservation Area.

3/2016/1202 - Barn at Greengore Farm, Hill Lane, Hurst Green - Appeal Dismissed 09/11/17

The LPA refused planning permission for the conversion of a barn at Greengore Farm to a residential dwelling, including the replacement of an existing garage. The application was refused on the grounds that the proposed conversion would have a harmful impact upon the setting of the nearby listed buildings, along with the cultural heritage and character of the Forest of Bowland Area of Outstanding Natural Beauty as a result of insertions of incongruous, conspicuous and visually intrusive glazed windows and doors and the overtly domestic treatment of openings.

In dismissing this appeal the Inspector concurred that the proposed development would harm the character and appearance of the traditional barn and the setting of the nearby Listed Buildings, which would "...damage historic elements of the AONB's environment that serve to enrich the landscape's scenic quality."

3/2017/0220 – 2A Whittingham Road, Longridge - Appeal Allowed 14/12/17

Upon the recommendation of LCC Highways an application for the change of use of a shop to a hot food takeaway was refused on highway safety grounds. It was considered that there was already a lack of suitable parking in the area and the proposed change of use would only exacerbate the existing situation to the detriment of highway safety in this area.

The Inspector noted that parking was restricted by double yellow lines to the front of the unit before commenting that on-street parking is available within a short distance of the appeal premises. The Inspector was of the opinion that because of the residential nature of the area many of the potential customers may live locally and therefore walk to the property, or receive deliveries. The Inspector also commented that the claim customers may ignore on-street

parking restrictions (yellow lines) was not a valid justification to refuse the application and that such restrictions should be enforced by the relevant authorities.

In summary the Inspector concluded that there was no evidence to demonstrate that the additional traffic created by the proposed use could not be accommodated within the existing on street parking provision, a short distance from the appeal site, and therefore allowed the appeal.